UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,770	09/30/2003	Barrett Morris Kreiner	BS030265 (03-BS022)	4441

7590   07/27/2007

Scott P. Zimmerman
P.O. Box 3822
Cary, NC 27519

EXAMINER
WONG, ALLEN C

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
07/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/674,770	KREINER ET AL.
	Examiner	Art Unit	
	Allen Wong	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>03 May 2007</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments with respect to claim 7 have been read and considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 5/3/07 have been fully read and considered but they are not persuasive.

Regarding lines 13-17 on page 6 of applicant's remarks about claims 1 and 12, applicant states that the examiner agreed that the claims, as originally presented, overcome the cited documents. The examiner respectfully disagrees. On April 10, 2007, 11am Eastern Standard Time, the interview took place where Attorney Zimmerman discussed the prior relative to the present invention in that Parnian's citation of the event log or element 132 of figure 3 is not the claimed "loop buffer" that stores video data of the event captured by the camera. It is true that the Parnian's element 132 of figure 3 is not the "loop buffer", however, as stated in the interview on April 10th, the examiner did specifically pointed out that the Parnian's element 65 of figure 2 is a video memory that takes the video image data directly from the video camera 35a via the video connection 65a, and also pointed to column 12, lines 26-34. Clearly, Parnian's element 65 is a "loop buffer also storing video data of the event captured by the camera". Parnian meets the broad limitations of claim 1. The use of a video memory is not a patentable feature since it is well known in the art to use memory for storing the obtained video image data into some type of video image storage unit(s) so that important image data is not lost and kept in record for review and replay.

Regarding line 24 on page 7 to line 2 on page 8 of applicant's remarks, applicant contends that "set of rules" limitation is not disclosed since the "loop buffer" is not disclosed in Parnian. The examiner respectfully disagrees. The aforementioned "loop buffer" is disclosed for reasons as explained above and in the rejection below. As for the "set of rules", Parnian discloses element 20 of figure 2 is the CPU or central processing unit that adheres to a set of rules stored in memory to determine whether to keep the data stored in memory or stored to other external video data storage means, like mass storage devices 51 and 52, and removable flash memory 53. Also, in the applicant's specification, paragraph [0025] discloses that the video data can be determined as to when the transfer takes place into other storage means or external devices like memory cards, flash memory or optical storage devices. Thus, it is clear that the applicant's description about the "set of rules" is very similar to Parnian's specification. Thus, Parnian discloses the "set of rules".

Regarding lines 13-18 on page 8 of applicant's remarks, applicant states that Parnian does not disclose claims 11 and 20. The examiner respectfully disagrees. Because of the reasons as stated above and in the rejection below for the "loop buffer", claims 11 and 20 are disclosed for similar reasons.

Independent claims 1 and 12 are rejected for reasons as stated above and in the rejection below. Dependent claims 2-6, 8, 9, 11, 13-18 and 20 are rejected for at least similar reasons as stated for claims 1 and 12.

Regarding page 9 of applicant's remarks, applicant argues that claims 10 and 19 are not disclosed or suggested in the combination of Parnian and Shamosh. The

examiner respectfully disagrees. The examiner recognizes that obviousness can only

be established by combining or modifying the teachings of the prior art to produce the

claimed invention where there is some teaching, suggestion, or motivation to do so

found either in the references themselves or in the knowledge generally available to one

of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir.

1988) and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it

would have been obvious to one of ordinary skill in the art to combine the teachings of

Parnian and Shamosh, as a whole, for providing an accurate, cost-effective, efficient,

robust way of recording audio/visual data in surveillance applications, as disclosed in

Shamosh's column 1, lines 49-55.

The test for obviousness is not whether the features of a secondary reference

may be bodily incorporated into the structure of the primary reference; nor is it that the

claimed invention must be expressly suggested in any one or all of the references.

Rather, the test is what the combined teachings of the references would have

suggested to those of ordinary skill in the art. See In re Keller, 642 F.2d 413, 208

USPQ 871 (CCPA 1981).

One cannot show nonobviousness by attacking references individually where the

rejections are based on combinations of references. See In re Keller, 642 F.2d 413,

208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed.

Cir. 1986).

Parnian does not specifically disclose interfacing with a vehicle controller to

transfer video data of the event. However, Shamosh teaches modem 30 of figure 1 is

within the vehicular security system of figure 3 that is utilized to establish interfacing for

transferring video data of event captured by video/audio recording unit 24. Thus,

Shamosh teaches interfacing with a vehicle controller to transfer video data of the

event. Because the "loop buffer" and the "set of rules" limitation is disclosed as stated

in the above and in the rejection below, it would have been obvious to apply the

combination of Parnian and Shamosh for providing an accurate, cost-effective, efficient,

robust way of recording audio/visual data in surveillance applications, as disclosed in

Shamosh's column 1, lines 49-55.

In conclusion, the rejection of claims 1-20 is maintained.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   Claim 1-6, 8, 9, 11-18 and 20 are rejected under 35 U.S.C. 102(e) as being

anticipated by Parnian (6,538,623).

Regarding claims 1 and 12, Parnian discloses a method and a video recorder,

comprising:

a processor communicating with memory, the memory for storing video data of an event captured by a camera, the video data comprising a series of picture frames (col.9, ln.7-19, note in fig.2 the use of a CPU for processing data and communicating with memory stored in element 22, 51 and 52, and video data is captured by video camera 35a);

a loop buffer also storing video data of the event captured by the camera (fig.2, element 65 and col.12, ln.26-34; Parnian discloses element 65 is a video memory that takes the video image data directly from the video camera 35a via the video connection 65a); and

a set of rules stored in the memory, the set of rules determining when to transfer the contents of the loop buffer into the memory (fig.2, element 20 is the CPU or central processing unit that adheres to a set of rules stored in memory to determine whether to keep the data stored in memory or stored to other external video data storage means like mass storage devices 51 and 52, and removable flash memory 53);

wherein the video recorder utilizes the loop buffer to provide video data preceding the event (fig.2-3, note scene log 120, event log 132, photo log 126, etc. contain time-date stamps to check for preceding events as seen in fig.4a-4g for scanning through past cases, crime scenes, crime locations, evidence, photos, etc. to provide video data preceding the event, the data from element 65 is obtained, considered, utilized to provide data of the video image data of the preceding event as stored in the loop buffer).

Regarding claims 2, 3, 13 and 14, Parnian discloses wherein the memory comprises a mass-storage device, the mass storage device storing the video data of the event (fig.2, element 51 and 52).

Regarding claims 4, 5 and 15, Parnian discloses wherein the memory comprises a memory card (fig.2, element 53).

Regarding claims 6 and 16, Parnian discloses further comprising an interface to a communications network (fig.2, element 90).

Regarding claims 8, 11, 17 and 20, Parnian discloses further comprising a switch to transfer the contents of the loop buffer into the memory (fig.2, element 65 and col.12, ln.26-34; Parnian discloses element 65 is a video memory that takes the video image data directly from the video camera 35a via the video connection 65a; fig.2, element 20 is the CPU or central processing unit that adheres to a set of rules stored in memory to determine whether to keep the data stored in memory or stored to other external video data storage means like mass storage devices 51 and 52, and removable flash memory 53, and that wherein user input can be used from keyboard 60 and mouse 32b to transfer contents of the loop buffer into the memory).

Regarding claims 9 and 18, Parnian discloses wherein the loop buffer also stores audio data of the event captured by a microphone (fig.3, element 103).

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 7, 10 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Parnian (6,538,623) in view of Shamosh (5,144,661).

Regarding claims 7, Parnian discloses wherein the set of rules that causes a

transfer of the contents of the loop buffer into the memory devices memory (fig.2,

element 20 is the CPU or central processing unit that adheres to a set of rules stored in

memory to determine whether to keep the data stored in memory or stored to other

external video data storage means like mass storage devices 51 and 52, and removable

flash memory 53).

Parnian discloses that vehicular data can be obtained (fig.5b discloses that

"automobile/traffic" data can be obtained). Parnian does not specifically disclose the

"vehicular data" causing transfer of the contents of the loop buffer into the memory

devices memory. However, Shamosh teaches the vehicular data causes the transfer of

the contents of the loop buffer into the memory devices memory (note fig.1, modem 30

within the vehicular security system of fig.3 is utilized to establish interfacing the transfer

of video image data of event captured by video/audio recording unit 24). Therefore, it

would have been obvious to one of ordinary skill in the art to combine the teachings of

Parnian and Shamosh, as a whole, for providing an accurate, cost-effective, efficient,

robust way of recording audio/visual data in surveillance applications (Shamosh col.1,

ln.49-55).

Regarding claims 10 and 19, Parnian discloses the video image data is directly

transferred to the loop buffer (fig.2, element 65 and col.12, ln.26-34; Parnian discloses

element 65 is a video memory that takes the video image data directly from the video

camera 35a via the video connection 65a). Parnian does not specifically disclose

interfacing with a vehicle controller to transfer video data of the event. However,

Shamosh teaches interfacing with a vehicle controller to transfer video data of the event

(note fig.1, modem 30 within the vehicular security system of fig.3 is utilized to establish

interfacing for transferring video data of event captured by video/audio recording unit

24). Therefore, it would have been obvious to one of ordinary skill in the art to combine

the teachings of Parnian and Shamosh, as a whole, for providing an accurate, cost-

effective, efficient, robust way of recording audio/visual data in surveillance applications

(Shamosh col.1, ln.49-55).

Double Patenting

5.   The nonstatutory double patenting rejection is based on a judicially created
doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the
unjustified or improper timewise extension of the "right to exclude" granted by a patent
and to prevent possible harassment by multiple assignees. A nonstatutory
obviousness-type double patenting rejection is appropriate where the conflicting claims
are not identical, but at least one examined application claim is not patentably distinct
from the reference claim(s) because the examined application claim is either anticipated ·
by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg,* 140
F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman,* 11 F.3d 1046, 29
USPQ2d 2010 (Fed. Cir. 1993); *In re Longi,* 759 F.2d 887, 225 USPQ 645 (Fed. Cir.
1985); *In re Van Ornum,* 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel,* 422
F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington,* 418 F.2d 528, 163
USPQ 644 (CCPA 1969).
        A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d)
may be used to overcome an actual or provisional rejection based on a nonstatutory
double patenting ground provided the conflicting application or patent either is shown to
be commonly owned with this application, or claims an invention made as a result of
activities undertaken within the scope of a joint research agreement.
        Effective January 1, 1994, a registered attorney or agent of record may sign a
terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with
37 CFR 3.73(b).

6.   Claims 1-20 are provisionally rejected on the ground of nonstatutory double patenting over claims 1, 11 and 18 of copending Application No. 10/674,995. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: Claim 1 of Application No. 10/674,995 discloses "storing in memory...a series of frames...", and claim 1 of the present invention discloses "memory for storing video data... series of picture frames". Similarly, Claim 1 of Application No. 10/674,995 and claim 1 of the present invention discloses "loop buffer". Also, claim 1 of Application No. 10/674,995 discloses "transferring the contents of the loop buffer to the memory...", and claim 1 of the present invention discloses "transfer contents of the loop buffer into the memory". Although the claims are not exact as application No. 10/674,995 discloses audio and video, it would have been obvious to modify the application No. 10/674,995 to exclude audio and only process the video for obtaining the present invention.
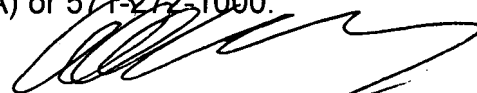
Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allen Wong whose telephone number is (571) 272-7341. The examiner can normally be reached on Mondays to Thursdays from 8am-6pm Flextime.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Allen   Wong
Primary Examiner
Art Unit 2621

AW
7/18/07